

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

TERRY R. RAYMOND,

Plaintiff,

vs.

U.S.A. HEALTHCARE
CENTER—FORT DODGE, L.L.C.,
and the parent corporation, U.S.A.
HEALTHCARE, INC.,

Defendants.

No. C 05-3074-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, before the lawyers make their opening statements, I am giving you these instructions to help you better understand the trial and your role in it. Consider these instructions, together with all written and oral instructions given to you during or at the end of the trial, and apply them as a whole to the facts of the case. In considering these instructions, the order in which they are given is not important.

This case involves Ms. Raymond's claim that she was terminated, in violation of Iowa law, because she filed a workers' compensation claim for a wrist injury that she suffered on the job, and her request for damages for the defendants' allegedly retaliatory conduct. The defendants deny Ms. Raymond's claim and contend that they lawfully terminated her employment. It will be your duty to decide from the evidence what the facts are. You will find the facts from the evidence. You are the sole judges of the facts, but you must follow the law as stated in these instructions, whether you agree with it or not. You have been chosen and sworn as jurors in this case to try the issues of fact presented by the parties. Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I will give it to you in these Instructions.

Although you must follow my Instructions, you should not take anything I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be. Therefore, if I ask questions of witnesses during the

trial, do not assume that I have any opinion on the matters to which my questions relate.

This case should be considered and decided by you as an action between persons of equal standing in the community, of equal worth, and holding the same or similar stations in life. In this case, defendants U.S.A. Healthcare Center—Fort Dodge, L.L.C., and U.S.A. Healthcare, Inc., are business entities. The mere fact that a party is a business entity does not mean that it is entitled to any greater or lesser consideration by you. All persons, including plaintiff Raymond and defendants U.S.A. Healthcare Center—Fort Dodge, L.L.C., and U.S.A. Healthcare, Inc., stand equal before the law, and are entitled to the same fair consideration by you.

A business entity, of course, acts only through its agents or employees. Any agent or employee of a business entity may bind that business entity by acts and statements made while acting within the scope of the authority delegated to the agent by the business entity or within the scope of the agent's or employee's duties as an agent or employee of the business entity.

In these Instructions, I will call Terry R. Raymond "the plaintiff" or "Ms. Raymond." I will call U.S.A. Healthcare Center—Fort Dodge, L.L.C., and U.S.A. Healthcare, Inc., "the defendants" or, collectively, "U.S.A. Healthcare."

INSTRUCTION NO. 2 - BURDEN OF PROOF

In these Instructions, you are told that your verdict depends on whether you find that certain facts have been proved. The burden is upon Ms. Raymond to prove the facts that establish her claim and damages.

Unless I tell you otherwise, Ms. Raymond must prove facts by the “greater weight of the evidence.” To prove something “by the greater weight of the evidence” means to prove that it is more likely true than not true. The “greater weight of the evidence” is determined by considering all of the evidence and deciding which evidence is more believable. If, on any issue in the case, you find that the evidence is equally balanced, then you cannot find that the issue has been proved.

The “greater weight of the evidence” is not necessarily determined by the greater number of witnesses or exhibits a party has presented. The testimony of a single witness that produces in your mind a belief in the likelihood of truth is sufficient for proof of any fact and would justify a verdict in accordance with such testimony. This is so, even though a number of witnesses may have testified to the contrary, if, after consideration of all of the evidence in the case, you hold a greater belief in the accuracy and reliability of that one witness.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard, which applies in criminal cases. It does not apply in civil cases such as this. You should, therefore, put it out of your minds.

INSTRUCTION NO. 3 - DEFINITION OF EVIDENCE

You must decide the facts in this case based on the evidence presented in court. Evidence is:

1. Testimony.
2. Exhibits I admit into evidence.
3. Stipulations, which are agreements between the parties.

Evidence may be “direct” or “circumstantial.” The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony I tell you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the weight of the evidence is not determined merely by the number or volume of

documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict the witness's testimony. The quality and weight of the evidence are for you to decide.

INSTRUCTION NO. 4 - CERTAIN KINDS OF EVIDENCE

Depositions

Certain testimony from a deposition may be read into evidence. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given in court.

Interrogatories

During this trial, you may hear the word “interrogatory.” An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

Stipulated Facts

The plaintiff and the defendants have agreed or “stipulated” to certain facts and have reduced these facts to a written agreement or stipulation. Either counsel may, throughout the trial, read to you all or a portion of the stipulated facts. You should treat stipulated facts as having been proved.

INSTRUCTION NO. 5 - CREDIBILITY AND IMPEACHMENT OF WITNESSES

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

Any witness may be discredited or "impeached" by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony. If earlier statements of a witness are admitted into evidence, they will not be admitted to prove that the contents of those statements are true. Instead, you

may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and, therefore, whether they affect the credibility of that witness.

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight you think it deserves.

INSTRUCTION NO. 6 - RETALIATION FOR FILING A WORKERS' COMPENSATION CLAIM

Ms. Raymond alleges that she was terminated from her position with U.S.A. Healthcare, in violation of Iowa law, because she filed a workers' compensation claim for a wrist injury that she suffered on the job. She seeks damages for U.S.A. Healthcare's allegedly retaliatory conduct. The defendants deny Ms. Raymond's claims and contend that they lawfully terminated her employment.

To win on her "retaliation" claim, Ms. Raymond must prove the following elements by the greater weight of the evidence.

One, Ms. Raymond filed and pursued a claim for workers' compensation for a workplace injury.

The parties agree that Ms. Raymond suffered a wrist injury in November 2002 in the course of her employment with U.S.A. Healthcare, for which she subsequently filed a workers' compensation claim. They also agree that she continued to claim workers' compensation benefits for treatment of that injury at various times until and after her termination in February 2005.

Two, Ms. Raymond was terminated from her position.

The parties agree that Ms. Raymond was terminated from her position on February 21, 2005, but they dispute the reason for her termination.

Three, Ms. Raymond's filing or pursuing a claim for workers' compensation was the determinative factor in U.S.A. Healthcare's decision to terminate her.

The parties agree that Ms. Raymond was an "employee at will." An "employee at will" may be terminated at any time for any reason, or for no reason at all, but may not be terminated for a reason that is contrary to the public policy of the State of Iowa. It is against the public policy of the State of Iowa to discharge an employee for filing or pursuing a workers' compensation claim. Therefore, Ms. Raymond must prove that her filing or pursuing a workers' compensation claim was "the determinative factor" in U.S.A. Healthcare's decision to terminate her. A "determinative factor" is "the final straw" or the reason that "tips the scales" decisively one way or the other, even if it is not the predominant reason behind the employer's decision.

You cannot find that this element has been proved simply because you disagree with U.S.A. Healthcare's decision to terminate Ms. Raymond, or because you believe that decision was harsh or unreasonable. Thus, if U.S.A. Healthcare offers other justifications for the allegedly retaliatory decision to terminate Ms. Raymond, Ms. Raymond must prove that those other justifications are not the true reasons for U.S.A. Healthcare's actions, but are, instead, pretexts for retaliatory action, or she must prove that those reasons are insufficient, standing alone, to justify terminating her. Evidence that the defendants' reasons for terminating Ms. Raymond have changed over the course of their investigation or during the trial is evidence from which you may, but are not required to, find that the defendants' reasons are pretexts for retaliation for filing or pursuing a workers'

compensation claim. Ultimately, to win her retaliation claim, Ms. Raymond must show that, notwithstanding other justifications, her filing or pursuing a workers' compensation claim was the "determinative factor"—the "final straw"—leading to her termination.

If Ms. Raymond does not prove *all* of these elements by the greater weight of the evidence, *then* your verdict must be for U.S.A. Healthcare on Ms. Raymond's "retaliation" claim. On the other hand, *if* Ms. Raymond proves *all* of these elements by the greater weight of the evidence, *then* she is entitled to damages in some amount.

INSTRUCTION NO. 7 - DAMAGES—IN GENERAL

The fact that I am instructing you on the proper measure of damages should not be considered as an indication that I have any view as to whether any party is entitled to your verdict in this case. Instructions as to the measure of damages are given only for your guidance in the event that you should find that the plaintiff is entitled to damages in accord with the other instructions.

If you find in favor of Ms. Raymond on her “retaliation” claim, then you must award her such sum as you find by the greater weight of the evidence will fairly and justly compensate her for any damages that she has proved by the greater weight of the evidence were proximately caused to her by the conduct of the defendants at issue in that claim. An act is a “proximate cause” of damage if the act was a substantial factor in producing the damage and the damage would not have happened except for the act. “Substantial” means that the act had such an effect in producing damage as to lead a reasonable person to regard it as a cause of the damage.

In arriving at an amount for any particular item of damages, you cannot establish a figure by taking down the estimate of each juror as to damages and agreeing in advance that the average of those estimates shall be your award of damages. Rather, you must use your sound judgment based upon an impartial consideration of the evidence.

Remember that, throughout your deliberations, you must not engage in any speculation, guess, or conjecture. Except where instructed otherwise, in your

consideration of punitive damages in Instruction No. 9, you must not award damages under these Instructions by way of punishment or through sympathy. Your judgment must not be exercised arbitrarily or out of sympathy or prejudice for or against any of the parties.

You must award the full amount of damages, if any, that Ms. Raymond has proved by the greater weight of the evidence. However, the amount you assess for damages must not exceed the amount proximately caused by the wrongful conduct of the defendants as proved by the evidence. Also, do not allow any amount awarded for one item of damages to be included in any amount awarded for any other item of damages, because the plaintiff is not entitled to recover duplicate damages.

A plaintiff has a duty under the law to “mitigate” her damages—that is, to exercise reasonable diligence under the circumstances to minimize her damages. Therefore, if you find that the defendants have proved by the greater weight of the evidence that the plaintiff failed to seek out or take advantage of an opportunity to reduce her damages that was reasonably available to her, then you must reduce her damages by the amount that she reasonably could have avoided if she had sought out or taken advantage of such an opportunity.

Attached to these Instructions is a Verdict Form, which you must fill out. In the “damages” sections of the Verdict Form, you should only award those damages, if any, that the plaintiff has proved by the greater weight of the evidence were proximately caused by the defendants’ “retaliatory” conduct toward her.

INSTRUCTION NO. 8 - COMPENSATORY DAMAGES

Ms. Raymond seeks two kinds of “actual” or “compensatory” damages on her “retaliation” claim, emotional distress and backpay. I will explain these items of damages in turn.

Emotional distress damages. Damages for “emotional distress” are the amount of damages that will reasonably compensate Ms. Raymond for the emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life that were proximately caused by the wrongful conduct of U.S.A. Healthcare at issue in Ms. Raymond’s “retaliation” claim. The amount, if any, that you assess for damages for emotional distress cannot be measured by an exact or mathematical standard, and Ms. Raymond is not required to introduce evidence of the monetary value of such damages. Even so, you must use your sound judgment based upon an impartial consideration of the evidence to determine the amount of such damages. Damages for emotional distress must compensate Ms. Raymond for any emotional distress that she suffered from the time of the wrongful conduct in question until the time that you give your verdict.

You may also award emotional distress damages for future emotional distress, but only if you find that Ms. Raymond has proved by the greater weight of the evidence that her emotional distress proximately caused by U.S.A. Healthcare’s wrongful conduct is reasonably certain to extend into the future.

Backpay. Ms. Raymond also seeks an award of backpay for wages that she lost because of retaliation. “Backpay” is the amount of any wages and fringe

benefits that Ms. Raymond would have earned from the date of her termination on February 21, 2005, until the date of your verdict, *minus* the wages and fringe benefits, if any, that she actually did earn during that time from other employment. Do not deduct from any backpay award any workers' compensation benefits or unemployment benefits paid to Ms. Raymond during the backpay period.

INSTRUCTION NO. 9 - PUNITIVE DAMAGES

Purpose of punitive damages

In addition to compensatory damages, as described in Instruction No. 8, the law permits the jury, under certain circumstances, to award punitive damages. Punitive damages are not intended to compensate for injury, but are allowed to punish the defendants and to discourage the defendants and others from like conduct in the future.

You may award punitive damages to punish repeated misconduct, if the conduct that injured Ms. Raymond is the same sort of retaliatory conduct that occurred in prior cases. You cannot award punitive damages to punish or deter conduct that bore no relation to Ms. Raymond's harm. Therefore, you may not consider the merits of other parties' claims, real or hypothetical, against U.S.A. Healthcare in determining whether or not to award punitive damages against U.S.A. Healthcare in this case. You may, however, award punitive damages to punish U.S.A. Healthcare for prior repeated retaliatory conduct if the prior repeated retaliatory conduct was of the same sort that injured Ms. Raymond.

Eligibility for punitive damages

Punitive damages can only be awarded if Ms. Raymond proves *both* of the following elements by the greater weight of clear, convincing, and satisfactory evidence. Evidence is "clear, convincing, and satisfactory" if there is no serious or substantial uncertainty about the conclusion to be drawn from it. The elements

that Ms. Raymond must prove by clear, convincing, and satisfactory evidence to establish her eligibility to receive punitive damages are the following:

One, the retaliatory conduct of U.S.A. Healthcare constituted a willful and wanton disregard for the rights or safety of another.

Conduct is “willful and wanton” when a person intentionally does an act of an unreasonable character in disregard of a known or obvious risk that is so great as to make it highly probable that harm will follow.

An employer, such as U.S.A. Healthcare, is liable for punitive damages by reason of the acts of its employees or agents if one or more of the following occurred: (1) U.S.A. Healthcare or a managerial agent of U.S.A. Healthcare authorized the act and the way it was done; or (2) the agent or employee was employed in a managerial capacity and was acting in the scope of employment; or (3) U.S.A. Healthcare or a managerial agent of U.S.A. Healthcare ratified or approved the act.

Two, the retaliatory conduct of U.S.A. Healthcare caused actual damage to Ms. Raymond.

You can only award punitive damages if you first find that U.S.A. Healthcare’s retaliatory conduct caused actual damage to Ms. Raymond and you award compensatory damages to compensate her for such actual damage pursuant to Instruction No. 8.

Unless plaintiff Raymond has proved both of these elements by the greater weight of clear, convincing, and satisfactory evidence, she is not eligible to receive punitive damages. However, if she has proved both of these element by the greater

weight of clear, convincing, and satisfactory evidence, you may, but are not required to, award punitive damages in some amount.

Conduct directed at Ms. Raymond

In addition, if you find that Ms. Raymond is eligible to receive punitive damages against U.S.A. Healthcare, then you will be asked to indicate in the Verdict Form whether the conduct of U.S.A. Healthcare was directed specifically at Ms. Raymond. You need not be concerned with the effect of your determination on this question, because the effect of your determination on this question is for me to decide.

Amount of punitive damages

If you find that Ms. Raymond is eligible to receive punitive damages, as eligibility for punitive damages is explained above, then you must determine what amount, if any, of punitive damages to award for U.S.A. Healthcare's retaliatory conduct.

There is no exact rule to determine the amount of punitive damages, if any, that you should award. However, in determining the amount of punitive damages, if any, to award for U.S.A. Healthcare's retaliatory conduct, you may consider all the evidence including the following: (1) the nature of U.S.A. Healthcare's conduct; (2) the amount of punitive damages that will punish and discourage like conduct by U.S.A. Healthcare, in view of U.S.A. Healthcare's financial condition; and (3) Ms. Raymond's actual damages.

INSTRUCTION NO. 10 - ORDER OF TRIAL

The trial will proceed as follows:

After these instructions, the plaintiff's lawyer may make an opening statement. Next, the lawyer for the defendants may make an opening statement. An opening statement is not evidence, but simply a summary of what the lawyer expects the evidence to be.

After opening statements, the plaintiff will present evidence and call witnesses and the lawyer for the defendants may cross-examine them. Following the plaintiff's case, the defendants may present evidence and call witnesses and the lawyer for the plaintiff may cross-examine them.

After the evidence is concluded, the lawyers will then make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. I will then give you the last Instruction, on "deliberations," and you will retire to deliberate on your verdict.

INSTRUCTION NO. 11 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

INSTRUCTION NO. 12 - BENCH CONFERENCES

During the trial it may be necessary for me to talk with the lawyers out of the hearing of the jury, either by having a bench conference here while the jury is present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

INSTRUCTION NO. 13 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

INSTRUCTION NO. 14 - CONDUCT OF JURORS DURING TRIAL

You will not be required to remain together while court is in recess. However, you must decide this case based *solely* on the evidence presented in court, in light of your own observations, experiences, reason, and common sense. Therefore, to insure fairness, you, as jurors, must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it, or about any news story, rumor, or gossip about this case, and do not let anyone ask you about your participation in this case until the trial has ended and your verdict has been accepted by me. If someone should try to talk to you about the case during the trial, please report it to me.

Fourth, during the trial, you should not talk with or speak to any of the parties, lawyers, or witnesses involved in this case—you should not even pass the time of day with any of them. It is important that you not only do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply

to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party, or witness does not speak to you when you pass in the hall, ride the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case or about anyone involved with it, or let anyone tell you anything about any such news reports. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own. You must decide this case based on the evidence presented in court.

Seventh, do not make up your mind during the trial about what the verdict should be. Do not discuss this case with anyone, not even with other jurors, until I send you to the jury room for deliberations after closing arguments. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Eighth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will deliver it to me. I want you to be comfortable, so please do not hesitate to inform me of any problem.

I will reserve the last instruction, on deliberations, until after the presentation of evidence and closing arguments.

INSTRUCTION NO. 15 - DELIBERATIONS

In conducting your deliberations and returning your verdict, there are certain rules that you must follow.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

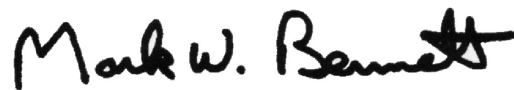
Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment. Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should, but do not come to a decision simply because other jurors think it is right, or simply to reach a verdict. Remember at all times that you are not partisans, you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically.*

Fourth, your verdict must be based solely on the evidence and on the law as I have given it to you in my instructions. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Finally, I am giving you the Verdict Form. A Verdict Form is simply the written notice of the decision that you reach in this case. *Your verdict must be unanimous*. You will take the Verdict Form to the jury room. When you have reached a unanimous verdict, your foreperson must complete one copy of the Verdict Form and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 14th day of May, 2007.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive, slightly stylized font. The "M" is large and loops around the "a". The "B" is also large and loops around the "e". The signature is positioned above a horizontal line.

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

TERRY R. RAYMOND,

Plaintiff,

vs.

U.S.A. HEALTHCARE
CENTER—FORT DODGE, L.L.C.,
and the parent corporation, U.S.A.
HEALTHCARE, INC.,

Defendants.

Nos. C 05-3074-MWB

VERDICT FORM

On the claim of plaintiff Terry R. Raymond, we, the Jury, find as follows:

RETALIATION							
Step 1: Verdict	<div style="border-bottom: 1px solid black; min-height: 100px; padding-bottom: 5px;">On Ms. Raymond's claim of "retaliation," as explained in Instruction No. 6, in whose favor do you find? <i>(If you find in favor of Ms. Raymond on this claim, then consider what compensatory damages, if any, she has proved on this claim in Step 2. However, if you find in favor of the defendants, then do not consider any more Steps in the Verdict Form. Instead, please notify the Court Security Officer that you have reached a verdict.)</i></div> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"><tr><td style="width:50%; text-align:center; padding: 5px;">___ Ms. Raymond</td><td style="width:50%; text-align:center; padding: 5px;">___ The defendants</td></tr></table>	___ Ms. Raymond	___ The defendants				
___ Ms. Raymond	___ The defendants						
Step 2: Compensatory Damages	<div style="border-bottom: 1px solid black; min-height: 100px; padding-bottom: 5px;">If you found in favor of Ms. Raymond in Step 1, what amount, if any, do you award for the following items of "compensatory damages" on this claim, as such damages are explained in Instruction No. 8?</div> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"><tr><td style="width:10%; text-align:center; padding: 5px;">\$</td><td style="padding: 5px;">_____ for past emotional distress</td></tr><tr><td style="text-align:center; padding: 5px;">\$</td><td style="padding: 5px;">_____ for future emotional distress</td></tr><tr><td style="text-align:center; padding: 5px;">\$</td><td style="padding: 5px;">_____ for backpay</td></tr></table>	\$	_____ for past emotional distress	\$	_____ for future emotional distress	\$	_____ for backpay
\$	_____ for past emotional distress						
\$	_____ for future emotional distress						
\$	_____ for backpay						

Step 3: Punitive Damages	a. Eligibility	Do you find by the greater weight of clear, convincing, and satisfactory evidence that the “retaliatory” conduct of the defendants constituted willful and wanton disregard for the rights or safety of another and that such conduct caused actual damage to Ms. Raymond? <i>(As explained in the “eligibility” section of Instruction No. 9, on page 16, if you answer “yes” to this question, then you may, but are not required, to award punitive damages to Ms. Raymond, and you should answer the questions in Sections b. and c. However, if you answer “no,” to this question, then Ms. Raymond is not eligible to receive punitive damages, and you should not complete Sections b. or c. Instead, sign the Verdict Form and inform the Court Security Officer that you have reached a verdict.)</i>
		_____ Yes _____ No
	b. Directed at Ms. Raymond	Do you find that the “retaliatory” conduct of U.S.A. Healthcare was directed specifically at Ms. Raymond? <i>(As explained in Instruction No. 9, on page 18, you need not be concerned with the effect of your determination on this question, because the effect of your determination on this question is for me to decide.)</i>
		_____ Yes _____ No
	c. Amount	What amount of punitive damages, if any, do you award? <i>(Factors that you should consider to determine the amount of punitive damages, if any, to award are explained in Instruction No. 9, on page 18.)</i>
		\$ _____

Date: _____

Time: _____

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror